

**493—12.5 (13B,815) Appellate contracts.** Subject to the provisions of this rule, an attorney who has entered into an appellate contract with the state public defender shall be paid pursuant to the terms of this rule for each appellate case to which the attorney is appointed. This rule applies to all appellate contract claims received by the state public defender on or after December 7, 2010.

**12.5(1) *Frivolous appeals.*** In an appeal in which the attorney withdraws from a case either based on a determination that the appeal is frivolous or for any other reason or in which the appeal is dismissed prior to the filing of the attorney's proof brief, the attorney shall be paid for all reasonable, necessary and appropriate hours claimed on the itemization at the rate of \$60 per hour.

**12.5(2) *Juvenile cases.*** For juvenile appeals, the following provisions apply.

*a.* In a juvenile case in which a petition on appeal is filed, an appointed trial attorney does not need to obtain an appointment order to pursue the petition on appeal. The claim, through the filing of the petition on appeal, must be submitted on a Juvenile form. If an appellate court orders full briefing, subsequent attorney fee claims must be submitted on an Appellate form. Any amount paid on the petition on appeal shall be considered in determining whether the attorney hours claimed on subsequent appellate claims are reasonable and necessary.

*b.* In an appellate case in which an appointed attorney joins in all or part of the brief of another party, the attorney shall be paid for all reasonable, necessary and appropriate legal services and expenses claimed on the itemization at the rate of \$60 per hour.

**12.5(3) *Appeals from a guilty plea.*** Notwithstanding the provisions of subrule 12.2(1), an attorney who has entered into an appellate contract with the state public defender and whose client is appealing from a judgment as the result of a guilty plea need not provide an itemization of legal services provided in the appeal if the amount of the attorney fee portion of the claim is \$600 or less. If the amount of the claim is in excess of \$600, the attorney must provide an itemization and will be paid for all reasonable, necessary and appropriate legal services claimed on the itemization at the rate of \$60 per hour, together with permissible out-of-pocket expenses.

**12.5(4) *Appeals from a trial.*** Notwithstanding the provisions of subrule 12.2(1), an attorney who has entered into an appellate contract with the state public defender and whose client is appealing from a judgment as the result of a jury trial or bench trial need not provide an itemization of legal services provided in the appeal if the amount of the attorney fee portion of the claim is \$1,800 or less. If the amount of the claim is in excess of \$1,800, the attorney must provide an itemization and will be paid for reasonable, necessary and appropriate legal services claimed on the itemization at the rate of \$60 per hour, together with permissible out-of-pocket expenses.

**12.5(5) *Applications for further review.*** In a case in which an application for further review is filed, the attorney will be paid for all reasonable, necessary and appropriate legal services claimed on the itemization at the rate of \$60 per hour, together with permissible out-of-pocket expenses.

**12.5(6) *Application of fee limitations.*** The fee limitations and procedures provided in rule 493—12.6(13B,815) have no application to appellate contracts.